

YOUR MATRIMONIAL RIGHTS

A. What constitutes a valid marriage in accordance with the Civil Law in the UK?

- If you undergo a civil marriage in the UK this is recognised as a valid marriage.
- If you travel abroad and marry in accordance with the law in that country this is recognised as a valid marriage in the UK.
- For example if you undergo a religious marriage in a country abroad, which is recognised this will also constitute a valid marriage in the UK.
- There is no need for you to undergo a further civil marriage in the UK as well.
- If you have a civil marriage in the UK and you undergo a second religious marriage abroad which is valid and recognised in accordance with that Law in that country this will constitute a criminal offence as you have entered into a polygamous marriage.
- If you undergo a religious marriage in the UK this is not recognised as a valid marriage unless the mosque or places where you married are licensed to perform civil marriages.
- If you have a civil marriage and undergo a religious marriage in the UK the second marriage is not recognised in the UK.

B. Nullity Proceedings

- A decree of nullity is a declaration that a marriage is either void, in that it never existed or voidable where it is treated as being valid or subsisting until the grant of decree.
- Marriages can be **void** where parties married too closely, or under age of 16 years or are already lawfully married.
- Marriage can be **voidable** where either party fails to consummate the marriage, lack of consent or a person suffers from mental disorder.
- Voidable marriages will revoke all previous wills, whereas a void marriage will not have that effect.
- You can apply for all orders in relation to children, property, and finance as on divorce.

- Nullity proceedings can be applied for in the first year of marriage.

C. Judicial Separation

- A decree of judicial separation does not dissolve the marriage.
- Neither party can remarry
- The grounds for judicial separations are the same as per divorce, adultery, unreasonable behaviour, two years separation with consent, desertion, and five years separation.
- There is no need to show irretrievable breakdown of marriage.
- Judicial separation proceedings can be applied for within the first year of marriage.
- There is no duty to live together.
- Judicial separation does not affect existing wills or rights of inheritance.

D. Divorce Proceedings

- No divorce proceedings can begin until one year after the marriage.
- There are two stages to the divorce. The first stage is decree nisi.
- Divorce proceedings can be stopped any time prior to decree absolute. That is the final stage of the divorce which will terminate the marriage.
- Decree absolute will affect any existing wills.
- Decree absolute will terminate the right of inheritance and the Intestate Rule i.e. where a person dies without making a will.
- Once decree absolute is granted either party may remarry.
- You have to prove irretrievable breakdown of marriage and the grounds for divorce are adultery, unreasonable behaviour, two years separation with consent, desertions, five years separation.

E. Children Proceedings on Divorce or Separation

- If your marriage is not recognised in the UK a father does not have parental responsibility for his children.

- A mother has sole responsibility for the children of the union.
- Fathers can apply to the court for shared parental responsibilities.
- Residence order is where custody of a child is decided, as to which parent the child will live with.
- Contact order is an order allowing the child to visit or stay over with the other person(s) named in the court order.
- Prohibitive Steps order is an order which prohibits a person from taking certain steps against a child / children.
- Specific Issue order deal with the specific matter in connection with any aspect of parental responsibility of a child where no agreement can be reached between the parties i.e. sterilisation, circumcision, religion a child should be brought up in.
- Orders can be obtained to prevent a parent from abducting a child or to return a child who has been abducted or taken abroad.
- The Child Abduction Act contains criminal offences which will be committed if a child is removed abroad without the consent of the other parent.
- A parent can take a child to live abroad with the leave of the court. The parent who remains behind and does not have residence of the child can apply for contact with the child who is taken abroad.

F DOMESTIC VIOLENCE

Domestic violence is a term used to describe violence within the home. It identifies it as a crime, distinct from other crimes.

(1) Civil Remedies

- Orders can be obtained against associated person i.e. a person who is married/has been married to a former spouse, cohabitants /former cohabitants, grandparents, grandchildren, aunts, uncles, nephews, nieces, step parents, and step children can apply for protection from the courts.
- Non-Molestation orders prohibit a person(s) from molesting a person or a child. This includes not only violence and threats of violence, but also pestering.
- Occupation orders can prevent a person from entering or remaining in a home or a part of a home. Such orders can regulate a person's occupation in a home, prohibit, suspend or restrict the right of occupation in a home, exclude a person from a home and exclude a person even from a defined area where the home is situated.

- Power of arrest can be attached to orders where a person has been subjected to violence or threatened violence.
- Power of arrest gives a police officer power to arrest a person without a warrant for breach of a court order.
- A person can be committed to prison for up to 2 years for being in breach of a court order.

(2) Criminal Remedies

- A police officer can arrest anyone without a warrant. If an offence is suspected to have been committed and they have reasonable grounds for suspecting that an arrest is necessary to prevent a person from causing or suffering physical injury, causing damage to property, or protect a child or vulnerable person from them.
- Actual Bodily Harm – is caused where a person is assaulted and suffers injury. No physical injury needs to be visible; pain soreness or tenderness is enough. This also includes psychological injury.
- Malicious Wounding – is an assault which causes the skin to break.
- Grievous Bodily Harm – is where a person causes serious harm (broken bones and cuts requiring stitches) by an assault or deliberately.
- Grievous Bodily Harm with intent – is where a person has intended to cause Grievous Bodily Harm.
- Common Assault – is where a person is pushed or hit without bruising, a punched aimed at a person without hitting them if they feared immediate unlawful force.